

Chapter 2 – Eligibility Determination

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1.1.0 W-2 Application

An application is defined as the process of determining eligibility for child care assistance. This process occurs after initial contact with the agency determining financial and non-financial eligibility. Once eligibility has been established, applicants must complete six month reviews (3.1.0). If eligibility for child care assistance fails for more than one calendar month, a new child care application is needed.

The Wisconsin Works (W-2) agency is responsible for determining child care eligibility. The W-2 agency may subcontract with a county agency or other agency to perform eligibility determinations. To apply for W-2 child care, use the W-2 Assistance application and complete an interactive interview within five (5) working days of the initial contact. The W-2 agency has seven (7) working days to determine the child care eligibility. The W-2 agency may extend the 7-day time limit for a person for whom compliance with providing the needed verification items would be unduly burdensome. The W-2 agency may determine this and allow up to an additional 30 days from the initial request for W-2 services. Failure to provide verification of information is a reason for denial.

If an adult, other than the parent, spouse or non-marital co-parent, resides in the same house, consider him/her as a separate family. Include the income of a non-marital co-parent who is living in the household when calculating income. To determine parental status, use the following criteria:

1. Declaration by one (1) or both parents.
2. Birth Certificates.
3. Adjudication of paternity.
4. Child Support information.
5. Other documentation.

Examples.

1. Two adult sisters, with their respective children, live in the same household. Each is a separate AG.
2. A grandparent, an adult child and the grandchild live in the same household. Consider this to be two separate AG's. Grandparent is one household and the adult child and the grandchild are another household.
3. A grandparent, a minor child and the minor's child live in the same household. The three generations are considered one AG.

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1.1.1 Child Care Assistance Group

The primary person is responsible for verifying all information for all persons in the child care assistance group (AG). The AG includes the following persons residing in the household:

1. The custodial parent(s), kinship care parent, foster parent, treatment foster parent, legal custodian, or person acting in the place of the parent.
2. His/her spouse or non-marital co-parent.
3. All minor children for whom the custodial parent or his/her spouse has legal responsibility, legal custody or provides care and maintenance.
4. Any minor children of the non-marital co-parent.

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1.1.2 Temporary Absence Policy The temporary absence policy for child care applies to parents and children that were in the household and are temporarily out of the household.

Temporarily absent individuals must intend to return to the child care household.

Temporary absence reasons include, but are not limited to:

1. Hospitalization or admission to another treatment facility.
2. Employment (for example, a fisherman or truck driver)
This reason does not apply to children.
3. Visits
4. Attending a public educational institution or specialized school, such as schools for the blind or deaf.

The continuous absence should be for no more than six months. However, the agency may extend that period when there is a written plan demonstrating the parent or child intends to return to the household.

Parents:

A temporary absence exists for child care eligibility purposes when the parent of a minor child is not living in the household, because s/he is temporarily away from the household.

Parents that are temporarily absent must continue to exercise care and control of the children in the household. You may request written or other verification of the absent parent's or child's intent to return to the household.

Parents who are temporarily absent must still be in a qualifying activity. In a two-parent household, both parents must be in an approved activity. If one parent is in a qualifying activity and the other is unable to care for the child(ren), due to a medical determination (verified by a doctor, psychiatrist or psychologist); eligibility exists, if all other financial and non-financial requirements are met.

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1.1.2 Temporary Absence
(cont.)

Temporary Absence — Parent Example: Jean and her spouse Mike have three children eligible for and receiving child care subsidies. On October 24, Mike is admitted to a hospital for medical reasons. It is anticipated he will be there for two months and will return home after that time. Mike's doctors have verified he cannot care for his three children, while he is in the hospital. Jean will continue to work, while Mike is gone. There are no other financial or non-financial changes in the household. Mike is considered temporarily absent in this instance. The child care assistance group is still five and the family is still eligible for child care, because Jean is in an approved activity and it has been verified Mike cannot care for the children.

Children:

A temporary absence exists for child care eligibility purposes when the child is not living in the household, because s/he is temporarily away from the household. Children who are temporarily absent should continue to be included in the child care assistance group. Authorizations should not be created for temporarily absent children.

Temporary Absence – Child Example: Kelly has two daughters, Jennifer and Cassie, and her family is eligible for and receiving child care subsidies. Cassie is going on vacation with her grandmother for two months over the summer, but will return home after the vacation. There are no other financial or non-financial changes for the family.

Since Cassie will return home in less than six months, she should remain in the child care assistance group. However, she should not be authorized for child care, while she is out of the household.

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2.1.0 Introduction

The child care AG must meet both non-financial and financial requirements to be found eligible for child care. Use CARES to determine eligibility.

2.2.0 Non-financial Eligibility

To be non-financially eligible an applicant or participant must:

1. Be a citizen or qualified alien in a two parent household, the primary person must be a citizen or qualified alien.
2. Meet residency requirements; must currently reside in Wisconsin and, except for migrants, must intend to continue to reside in Wisconsin. Applicants for child care must apply at the W-2 agency in the geographical area in which they live.
3. All parents in the child care AG must cooperate in good faith with the efforts of a child support agency to establish paternity or to secure and enforce a child support order on behalf of any minor child of that parent, regardless of whether that parent is the custodial or non-custodial parent in a child support case, unless good cause is found. If the applicant does not cooperate with child support, there is no child care eligibility. Once cooperation with child support is determined, eligibility can be found, if all other criteria are met.
4. Furnish the W-2 agency with any relevant information the W-2 agency determines necessary, consistent with rules promulgated by DWD, within seven working days after receiving a request for the data from the agency.
5. Not to be determined to have intentionally violated, on three separate occasions, W-2 statutory provisions or rules.
6. Be a parent or provide care and maintenance to a child under the age of 13 or a child under the age of 19 who has "special needs".

Special needs defined as: emotional, behavioral, physical, or personal needs that require more than the usual amount of care and supervision for the child's age, as documented by a physician, psychologist,

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2.2.0 Non-financial Eligibility (cont.)

special educator, or other qualified professional. A special need includes a developmental disability.

Child care services for a child are needed to:

- a. Work in an unsubsidized job, including training provided by an employer during the hours of employment or parents needing child care for employment related activities.
- b. Work in Wisconsin Works (W-2) or Tribal TANF employment position, including participation in job search, orientation and training activities.

The two year education time limit for child care recipients does not apply to W-2 participants attending education and training programs that are part of their written employability plan.

Be part of a two parent family with one adult in a W-2 employment position and the spouse or non-marital co-parent in a work experience or job training position.

If one parent is in a qualifying activity and the other is not, eligibility will fail. If one parent is in a qualifying activity and the other parent is unable to care for the child, due to a medical determination verified by a doctor, psychiatrist or psychologist, eligibility exists if all other financial and non-financial requirements are met.

- c. Participate in up front job search, orientation or training activities required after the individual has applied for a W-2 or Tribal TANF employment position, but before eligibility has been determined.
- d. Participate in FSET job search and work experience programs. Activities include all related components, such as Job Readiness and Motivation, English as a second language, GED preparation, Enrollment with Orientation, and any other components necessary to prepare participants for permanent full time employment.

2.2.0 Non-financial Eligibility (cont.)

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- e. Be a teen parent participating in the Learnfare program to meet the school attendance requirement.
- f. Be an adult teen parent (18 and 19 year old) that is in the process of obtaining a high school diploma or participating in a course of study meeting the standards set by the Superintendent of Public Instruction for the granting of a declaration of equivalency. This category is for adult teen parents who are not Learnfare participants. **Adult teen parents do not have to be employed or in any W-2 activity to receive child care subsidies while in the process of obtaining a high school diploma or the equivalent.**

If the teen parent is a minor, s/he must reside with his/her custodial parent or with a kinship care relative or in a foster home, a treatment foster home, a group home, or an independent living arrangement supervised by an adult to be eligible for child care assistance while attending high school.

A minor teen parent living in an unsupervised independent living arrangement is eligible for child care while employed, if s/he meets all other non-financial and financial tests.

- g. Participate in assigned activities, including job search, training or orientation when assigned to W-2 case management services (CMS, CMU CMC or CMF).
- h. Participate in other employment skills training, including English as a Second Language course, if the W-2 agency determines the course would facilitate his/her efforts to obtain employment; a course of study meeting the standards set by the Superintendent of Public Instruction under s.115.29(4) for the granting of a declaration of equivalency of high school graduation;

A course of study at a technical college, if the W-2 agency determines the course would facilitate

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his/her efforts to maintain employment or enhance employment in the same or another profession or participate in educational courses that provide an employment skill, as determined by DWD.

A person may receive aid under this provision for up to two years. This two year time limit is only for child care recipients attending education and training programs that are not part of an employability plan. A person may not receive aid under this provision, unless s/he meets at least one of the following conditions:

- i. The person is employed in unsubsidized employment and continues to receive wages. It is agency discretion as to how many hours per month must be worked to continue eligibility. Employment "on-call" or just registration with a temporary employment agency is not considered "employed."

A Fellowship Award can meet the employment requirement for eligibility provided work is required. Any income received is considered unearned income and is budgeted accordingly.

- ii. The person is a participant in a W-2 or Tribal TANF employment position. Work Study is considered an employment activity. W-2 child care can be authorized for work study hours, if all other financial and non-financial criteria are met. A participant in Children First may be eligible for child care, if the person is in an approved activity, has a need for child care and meets all W-2 eligibility requirements.

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2.2.1 Non-financial Eligibility for Foster/Court Ordered Kinship Care Children Only

When child care is requested for foster or court ordered kinship care children only, the foster parents or court ordered kinship care parents must:

1. Be citizens or qualified aliens.
2. Provide verification of residence.
3. Provide verification of the date of birth and SSN.
4. Need child care in order to participate in a qualified activity.
5. Cooperate with the child support agency.

Court ordered kinship care is court ordered placement with a kinship care relative. **In order to be determined eligible for child care subsidies under this policy, a kinship care relative does not have to be receiving a kinship care grant but must be on the waiting list.**

2.2.2 Non-financial Eligibility for Children of Foster/Court Ordered Kinship Care Minor Parents

The foster or kinship care adult must meet the following non-financial criteria:

1. Be citizens or qualified aliens.
2. Provide verification of residence.
3. Provide verification of date of birth and provide SSN.
4. Need child care to participate in a qualifying activity.
5. Cooperate with the child support agency.

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2.2.3 Non-financial Eligibility for
Shared Custody Case

When a child under the age of 13 or under the age of 19, for children with “special needs”, lives part of the time with his/her mother and the other part of the time with his/her father, both the mother and father can apply for child care as separate cases. The mother and father will have separate cases and the child in common appears in both cases. Each case is tested for non-financial and financial eligibility.

2.2.4 Provider Requesting
Assistance

This section has moved to 2.3.2 Income - Self Employment

2.3.0 Financial Eligibility

To be financially eligible an applicant or participant must meet income guidelines.

2.3.1 Assets

Effective March 1, 2000, do not count the assets for the child care AG.

2.3.2 Income

Effective March 1, 2000, low-income parents applying for child care assistance must have income at or below 185% of the Federal Poverty Level (FPL). Once a family has established eligibility, income can rise to 200% FPL. Parents are eligible for child care assistance, until the income exceeds 200% FPL for two consecutive months. Prior to March 1, 2000, parents applying for child care assistance must have income at or below 165% FPL.

Available income is considered in the gross income test. Count the earned income and adjusted gross self - employment income of all AG members, except minors and dependent 18 year olds. Count all available unearned income except child or family support income.

Calculate income prospectively. Make the best estimate of monthly income based on the information available. Multiply the hourly rate of payment by the number of hours worked per week. Multiply this amount by 4.3 weeks to arrive at an average monthly earned income (hrs/wk x \$/hr x 4.3 wks = total income). Convert income received less than monthly to a monthly amount.

Child Support Paid Out – Do not subtract CS paid out of the household to someone outside of the child care AG from gross income.

2.3.2 Income (cont.)

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Self –Employment Income – To determine adjusted gross self-employment income for child care, use the net self-employment income from the Internal Revenue Service (IRS) tax form and add back in the depreciation (or depletion or amortization) by line from the IRS tax form. Then, divide the total by 12 to get monthly net earnings.

If no return has been filed, the person shall complete a 1040 form of the Internal Revenue Service to determine net earnings or loss or to anticipate, in the case of relatively new businesses, net earnings as required by the Internal Revenue Service.

If the latest income tax return does not accurately reflect actual circumstances, because a substantial increase or decrease in business has occurred, the agency shall calculate the self-employment income based on anticipated earnings. Agencies shall determine if it is necessary to use anticipated earnings on a case-by-case basis and must document the reasons for using anticipated earnings in the case record.

The IRS tax forms that are used to report self-employment income are available on the Department of Workforce Development Extranet under the DES Forms Repository. Listed below is a list of the forms used:

1. Form 1040 – Sole Proprietorship
 - a. Schedule C (Form 1040) – Business (nonfarm)
 - b. Schedule E (Form 1040) – Rental and Royalty
 - c. Schedule F (Form 1040) – Farm Income
 - d. Schedule SE (Form 104) – Social Security Self-Employment
2. Form 1065 – Partnership
3. Form 1120 – Corporation
4. Form 1120S – S Corporation
5. Form 4562 – Depreciation & Amortization

Self-Employment Income Sources – Sources are:

Business – Income from operating a business

A family day care provider **is eligible** for W-2 Child Care assistance for his/her own children when they attend another daycare setting outside of their home. This is limited to the hours child care (for other children) is being done in

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his/her own home. The Child Care provider is considered to be self-employed.

Capital Gains – Income from selling securities and other property.

Rental – Rental income is rent received from properties owned or controlled. Rental income is either earned or unearned. It is earned only if the owner actively manages the property an average of 20 or more hours per week. It is unearned when the owner reports it to the IRS as other than self-employment income.

Use “net” rental income in the eligibility determination. “Net” rental income is the gross rental receipts minus business expenses.

When the owner is not an occupant, “net” rental income is the rent payment received minus the interest portion of the mortgage payment and other verified operational costs.

When a life estate holder moves off the property and the property is rented, “net” rental income is the rent payment received minus taxes, insurance and operational costs. The operational costs are the same as the costs the holder was liable for when living on the property.

When the owner lives in one of the units of a multiple unit dwelling, compute “net” rental income as follows:

1. Add the interest portion of the mortgage payment and other operational costs common to the entire operation.
2. Multiply the number of rental units by the total in Step 1.
3. Divide the result in Step 2 by the total number of units to get the proportionate share.
4. Add the proportionate share to any operational costs paid that are unique to any rental unit. This equals total expenses.
5. Subtract total expenses from the total rent payments to get “net “ rent.

Royalties – Royalty income is income received for granting the use of property owned or controlled, usually a patent or copyrighted material or a natural resource. The right to income is often expressed as a percentage of receipts from

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using the property or as an amount per unit produced. Royalty income is always unearned income.

Anticipated Earnings - The Self-Employment Income Report Form, (SEIRF) DES-2131, simplifies reporting income and expenses when earnings must be anticipated. It is modeled after IRS Form 1040, Schedule C and can be used to report income for any type of business with any form of organization. However; some, especially farm operators, may find it easier to complete the IRS tax form when income and expense items are more complex.

To compute anticipated earnings, the person must complete a SEIRF for those months of operation, since the change in circumstances occurred (the beginning of a business is considered a change of circumstances). S/he may complete the SEIRF for each month separately or aggregate the months on one SEIRF.

1. For six or more months of operation since the change, calculate monthly average income and use it for the rest of the year.
2. For changes in months one through five, calculate monthly average over six months of operation.
3. For less than one month of operation since the change, the person must estimate income and expenses for the next two months on a SEIRF. Divide the estimate by two to get monthly income for the first two months. Next, calculate the cumulative monthly average over six months of operation.

Whenever self-employment income is anticipated, agencies must inform the families that if their anticipated self-employment income changes, they must inform the agency so a new estimate can be computed. Agencies may want to give a copy of the calculation of the estimated income based on SEIRF(s) to the family so they are aware of what was used to determine anticipated self-employment income.

Agencies will determine self-employment income by entering gross receipts and subtract allowable expenses. If the expenses exceed the gross receipts, the self-employment income will be zero. Those additional expenses, which exceed the gross receipts, will not be subtracted from other earned income in the household.

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Earned and Unearned Income - Count all earned and unearned income when determining eligibility. Only use income that is actually available for use. Income is available

when the person has a legal interest in it and has the legal ability to make it available for support and maintenance. Income is considered unavailable when s/he can reasonably document it cannot be accessed for 31 or more days. Unavailability is usually documented by a letter from an agency or the source stating when the person will receive the income. Count income beginning in the first month it is received and thereafter. Until the amount and the payment date are known, do not count the income.

2.3.2.1 Income for Foster/Court
Ordered Kinship Care Children

When child care is requested for foster or court ordered kinship care children only, the income of the natural parents can be used to determine financial eligibility. **Court ordered kinship care is considered court ordered placement with a kinship care relative.** Natural parents are defined as the adoptive or biological parents of the child. The natural parents must meet the following income limit:

Income must be at or below 200% FPL

The income of the foster/court ordered kinship care parents does not have to be used.

In order to determine the size of the AG for the income test for the natural parents, include the natural parents and any full or half siblings who were in the household before the child was placed in the foster care or court order kinship care setting.

If IV-E eligibility determination is available, use the information within that determination to help calculate income information of the natural parents.

Do not deny eligibility for child care, if information cannot be found or verified. If the natural parents have income or above the eligibility limits, you can test the foster or kinship care parents to see if they meet the eligibility criteria under 2.2.0 and 2.3.0.

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2.3.2.2 Income for Children of
Foster/Court Ordered Kinship
Care Minor Parents

The income of the foster/court ordered kinship care minor are used to determine financial eligibility for the minor's child. If the minor's spouse or non-marital co-parent is in the household, his/her income should also be included in determining financial eligibility for child care. The income limit is 200% FPL

The income of the foster/court ordered kinship care parents are not included.

The co-pay is determined at the lowest level of the co-payment chart, if there are no regular authorizations for other family members.

2.3.2.3 Income Sources

Income includes money, gross wages or salary, adjusted gross income from self-employment, social security, dividends, interest on savings or bonds, income from estates or trusts, net rental income or royalties, Supplemental Security Income (SSI), pensions and annuities, unemployment compensation, workers compensation, and veteran pensions.

Continue to count income received from maintenance payments.

Do not count child and family support payments received or earned income of minor dependents in a child care assistance group.

Add all of the countable earned and unearned income to determine the full gross monthly income. Test available income prospectively for W-2 child care eligibility.

Count any Caretaker Supplement for Children (CTS) benefit as unearned income in determining eligibility and co-pay responsibility.

Rent and room and board profit is earned income. Deduct expenses from earnings to determine countable income.

Income from a land contract is unearned income. Deduct expenses from earnings to determine the countable income.

2.3.2.3 Income Sources (cont.)

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To determine the best estimate of monthly earned income for employees paid on an hourly rate: (Hourly Rate) X (Hours/ Week) X (4.3 Weeks/Month) if paid on a weekly basis.

To determine the best estimate of monthly unearned income for the W-2 group: (Amount) X (4.3) Weeks/Month if received on a weekly basis.

Fluctuating Income. If the amount of regularly-received income varies, use an average. Average income that is received on an irregular basis over the period between payments. If neither the amount nor the frequency is consistent or predictable, count it only for the month in which it is received.

The result is the countable income amount used in the income test. Test the total countable income for the appropriate assistance group size against 165% federal poverty level (FPL), prior to March 1, 2000. On or after March 1, 2000, test against 185% (FPL) for the appropriate assistance group size for new applicants for child care. For ongoing recipients of child care assistance, test income eligibility against 200% of FPL.

Effective March 1, 2000, eligibility requires month one income be equal to or less than 185% of FPL. If the AG passes month one, month two is tested at the 200% FPL. Once the AG is determined eligible at the 200% FPL level, eligibility continues until income is above 200% FPL for two consecutive months.

A payment received must not be counted as an asset and income in the same month. Current payments must be counted as income in the month received. Any remaining amount is an asset in the following month and would not be counted on or after March 1, 2000.

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2.3.2.4 Beginning Months
Employment

Child care applicants who are beginning employment during the month of application may not receive an entire month of wages for that first month. When the applicant is beginning a job in the month of application, the prospective wages for each month must be entered. To correctly determine child care eligibility, enter accurate available income the applicant will receive in the first month. So, first enter income for month one of employment. Make sure to enter the begin date of the current month. Complete AFDE, the detail screen, then press PF17 to save and redisplay the screen. Type over the begin month data with data for month two and leave the end month date open. This makes the month two data ongoing for the determination. Effective March 1, 2000, CARES tests month one data against 185% FPL and month two data against 200% FPL, if month one passed the 185% test.

Example. Heidi begins employment on 07/13. She will receive her first paycheck on 07/31. She will continue to receive checks on a weekly schedule from then on. Heidi will earn \$8 per hour and work 40 hours a week. Heidi's prospective income for July will be 40 hours x \$8/hour x 2.15 = \$688 Heidi's worker enters this income on AFEI for month one. Heidi's prospective income for August is 40 hours x \$8/hour x 4.3 = \$1,376. Her worker enters this on AFEI as income for month two.

2.3.2.5 Disregards

Do not count the following income toward the child care gross income test:

1. Child Support Payments. Effective March 1, 2000, **do not** count child support or family support payments received by any individual in the child care assistance group. This income is also not included for the determination of the family copay.
2. Earned Income of Minor Dependents. Effective March 1, 2000, **do not** count earned income of minor dependents in a child care assistant group. This income is also not included for the determination of the family copay.

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2.3.2.5 Disregards (cont.)

3. Earned Income Credit (EIC). Do not count income received under the federal/state EIC, nor payments made by an employer under the federal advanced EIC.
4. Foster Care Payment and Kinship Care Payment. Do not count income received for Foster Care and Kinship Care payments. This income is not included for the gross income test or for the determination of the family copayment responsibility.
5. Loans. Loans are exempt as income, unless available for current living expenses. If available for current living expenses, count the loan as an asset, even if there is a repayment schedule.
6. Reverse Mortgage Loan Proceeds (1993 Wisconsin Act 88). Treat payments made to a borrower as proceeds from a loan and not as income. Treat non-disbursed funds as equity in a borrower's residence and not as proceeds from a loan.
7. W-2 Employment Positions and Job Access Loans. Do not count payments or earnings from any W-2 Employment Position: Trial Jobs, W-2 Transitions, Community Service Jobs, or Job Access Loans.
8. In-Kind Income. Disregard any gain or benefit that is not in the form of money paid directly to the household; such as meals, clothing, housing, and garden produce.
9. Benefits for Student-Age 18 year old. Disregard any income received under this program.
10. Reimbursements. Disregard money paid to the client to reimburse actual expenses incurred or paid or both. Examples of disregarded reimbursements are:
 - a. Reimbursements or flat allowance or per diem for job or training related expenses. These may be for travel, uniforms and transportation to and from the job or training site, including travel expenses of migrant workers.
 - b. Reimbursements for a volunteer's out of pocket expenses incurred in the course of his/her work.

2.3.2.5 Disregards (cont.)

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- c. Medical reimbursements.
- 11. Gifts. Disregard cash gifts, such as for birthdays, graduation and Christmas.
- 12. Windfalls. Disregard any dollar amount earmarked and used for the purpose it was paid, like back medical bills from an accident or injury, funeral and cemetery costs and replacement or repairs.

For medical services which can be provided only at a future date, disregard any amount earmarked for those services provided a signed agreement specifying:

- a. Source and amount of the settlement.
- b. Purpose for which it is earmarked.
- c. It is held in its own account.
- d. It is agreed to and understood that if all or part of the settlement is used for a purpose other than for what it is earmarked, that amount used will be considered available income and counted when determining eligibility and co-payments.

Disregard Federally Funded benefits. Any income from sources required to be disregarded by federal or state law must not be counted. These sources are:

- 1. Nutrition Program benefits from:
 - a. National School Lunch Act (PL 79-396).
 - b. Food Stamp Act of 1977 (PL 88-525).
 - c. Child Nutrition Act of 1996 (PL 89-642). (This includes WIC)
- 2. Indian Tribal Settlements:
 - a. Sub-marginal Lands (PL 94-114).
 - b. Disbursement of Minor's Share of Judgment Funds (PL 95-433).
 - c. Lands Held in Trust for the Benefit and Use of the Pueblo of Santa Ana (PL 95-498).

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- d. Lands Held in Trust for the Benefit and Use of the Pueblo of Zia (PL 95-499).
- e. Shoalwater Bay Indian Tribe, Dexter-by-the-Sea Claim Settlement Act (PL 98-432).
- f. Chippewas of Lake Superior (PL 99-146).
- g. Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds (PL 99-346).
- h. Chippewas of the Mississippi (PL 99-377).
- i. Michigan Indian Land Claims Settlement Act (PL 105-143).
- j. Section 707, Title VII Miccosukee Settlement (PL 105-83).
- k. Mississippi Sioux Tribes Judgement Fund Distribution Act of 1998 (PL 105-387).
- l. The Menominee Indian Bond Interest.
- m. As judgements to the Grand River Band of Ottawa; Red Lake, Lac du Flambeau and Minnesota Bois Forte Bands of Chippewa; the Blackfoot or Gros Ventre Tribes; Assiniboine Tribe of the Fort Belknap Community and Fort Peck Reservation; and any other judgement payment to a tribe through the Indian Claims Commission or Court of Claims.
- n. The Alaskan Native Claims Settlement Act.
- o. Delaware Tribe of Kansas and Idaho (PL 96-318).
- p. Houlton Band of Maliseet Indians, Passamoquoddy and Penobscot (PL 96-420).
- q. Maine Implementing Act and the Maine Indian Claims Settlement Fund.
- r. Sisseton-Wahpeton Sioux Tribe, except individual shares over \$2,000 (PL 93-124).
- s. Distribution of Judgement Funds Act of 1987 to the Cow Creek Band, Umpqua Tribe.

2.3.2.5 Disregards (cont.)

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- t. Distribution of Indian Judgement Funds to the Crow Creek and Lower Brule Sioux, except individual shares over \$2,000.
 - u. Puyallup Tribe of Indians Settlement Act of 1989 (PL 101-41).
3. Education Programs:
- a. Higher Education Act of 1965 (PL 89-329).
 - b. Employment Skills Advancement Program.

Disregard all student loans and grants, unless the award letter specifically states the loan/grant is for child care purposes.

4. Other Federal Benefits:
- a. Work Study Income. Do not count work study income received in calculating gross income or in determining the family copayment responsibility.
 - b. Housing Act of 1949 (PL 81-171).
 - c. Older Americans Act (PL 89-73).
 - d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646).
 - e. Robert T. Stanford Disaster Relief and Emergency Act (PL 93-288).
 - f. Housing and Community Development Amendments of 1978 (PL 95-557), however, wages from the act may be counted as income.
 - g. Low Income Energy Assistance Act of 1981 (PL 97-35).
 - h. Old Age Assistance Claims Settlement Act (PL 98-500).
 - i. Wisconsin Investment Act (formerly Job Training Partnership Act (JTPA) (PL 102-367)) Disregard funding from WIA, unless specifically earmarked for child care expenses.

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2.3.2.6 Limited Disregards

Some income may be counted under limited circumstances:

1. Americorps*VISTA (PL 93-113). Disregard, unless the VISTA agency director determines volunteers are receiving the equivalent of minimum wage. Treat Americore income the same as VISTA income. Disregard it, unless the income is equivalent to minimum wage.
2. Indian Tribal Judgment Funds use or Distribution Act (PL 93-134). Count per capita shares in excess of \$2,000 and income above \$2,000 per year.
3. Rehabilitation Act of 1973 (PL 93-112). Disregard wages, allowances or reimbursements for transportation or personal assistance services costs paid to reasonably accommodate an employee, such as a vehicle modification made to accommodate a disability or a payment by DVR to support a rehabilitation plan.
4. AFDC Exclusion from Income (PL 97-248). Payments excluded, if made without Federal Financial Participation (FFP) and under a state program continuously in effect since before January 10, 1979.

2.3.2.7 Changes in Income

The county/tribe is responsible for reviewing the current child care authorization to determine if a new authorization should be created due to changes in income or needed hours of child care. When an income change occurs, but eligibility for child care remains open, the following policies apply:

1. If gross monthly income increases by \$250 or more, the current authorization should be ended and a new authorization shall be made. A ten day notice of the change is required to be sent to both the family and the child care provider. The ending date of the current authorization should be indicated, as well as a copy of the new authorization, which will be in effect.
2. If gross monthly income decreases by \$100 or more, end the current authorization and create a new authorization. A ten-day notice of the change and a copy of the new authorization, which will be in effect, should be sent to both the family and the provider.

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2.3.2.7 Changes in Income (cont.)

If a change occurs, which is a positive benefit to the family and the provider, the ten-day notice is not required.

Authorization end dates are always on a Saturday.
Authorization begin dates are always on a Sunday.
Whenever a negative benefit occurs, at least a ten-day notice is required to both the family and the child care provider. A new authorization, indicating the new payment rate, number of hours authorized and the effective dates of the authorization, can be considered the notice to the family and the provider.

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3.1.0 Six Month Eligibility

The W-2 agency will determine eligibility for child care assistance for a six month period. The W-2 agency will require the child care recipient to report any changes in income within ten calendar days of the occurrence. The Financial Employment Planner (FEP)/Supportive Services Planner (SSP) will adjust the estimate for earned income when one of the following occurs:

1. A change in the source of income.
2. A change in the rate or scheduled hours of work, if the amount of the change is more than \$80 per month.
3. A change in the payment schedule.

The FEP/SSP must incorporate changes in unearned income immediately. At review, the FEP/SSP must incorporate all changes in income that have not already been entered.

Eligibility for W-2 child care authorizations is not automatic. Once a family is determined eligible for child care, the county/tribal agency is responsible to determine the amount of reimbursement which can be authorized to the provider. The family must contact the local agency for instructions on requesting an authorization for child care payment to a regulated child care provider. The family must have an authorization in place before a payment will be made to the child care provider. No payment will be made to a provider, if the child never attends the provider home or center.

The FEP/SSP/County or Tribal agency may request work schedules and information on the availability of legally responsible relatives to care for children, along with other documentation to verify the number of hours of child care needed.

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3.1.0 Six Month Eligibility (cont.) If found eligible for child care, an authorization can be backdated to the beginning of the eligibility month, if requested. Authorizations always begin on Sundays, so the corresponding authorization begin date may go back to the Sunday of the week just previous to the first of the month.

Example – A family applies for child care and eligibility for child care is confirmed on December 18th. The parent requests a child care authorization from the beginning of November. The farthest back an authorization can be backdated is the first of the month of December; the first month the family is eligible for child care. If December 1st is a Monday, the corresponding child care authorization will begin on the Sunday before the 1st, or November 30. If the first of the month falls on a Sunday, no backdating beyond that Sunday will occur. The farthest backdating possible would be six (6) days, where the first of the month falls on a Saturday and the corresponding authorization would begin the previous Sunday.

Authorizations must be completed as timely as possible to assure the child care arrangement will remain intact and the parent will be able to attend the approved activity. Once a request is made for the authorization and all other needed information has been supplied, including the name of the chosen regulated child care provider, the authorization should be completed and copies given/sent to the parent and provider. The Office of Child Care (OCC) recommends this be completed on a timely basis to avoid retroactive authorizations and payments whenever possible.

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4.0.0 FACT FINDING PROCESS Individuals who believe an agency decision regarding child care subsidy is incorrect may request, in writing, a Fact-Finding review by the W-2 agency within 45 days of the agency's decision.